

**DEPARTMENT OF CORPORATIONS**

California's Investment and Financing Authority  
Sacramento, California



August 8, 2007

Scott Thorpe, Chief Executive Officer  
California District Attorneys Association (CDAA)  
731 K Street, 3<sup>rd</sup> Floor  
Sacramento, CA 95814

Re: California Deferred Deposit Transaction Law "Payday Loan" - Financial Code §§ 23000 et seq.

Dear Mr. Thorpe:

The Department of Corporations ("Department") values the effective working relationship it has with the CDAA and California Department of Justice ("DOJ") on projects of mutual interest. In 2005, the California Deferred Deposit Transaction Law ("CDDTL") was amended and transferred from DOJ to the Department's jurisdiction. The CDDTL now restricts the type of actions that prosecutors can pursue against consumers whose checks written for their CDDTL agreements are later dishonored.

Financial Code section 23035, subdivision (c)(3), requires that before entering into deferred deposit transactions, customers must receive a notice that states:

[T]he customer cannot be prosecuted in a criminal action in conjunction with a deferred deposit transaction for a returned check or be threatened with prosecution.

Financial Code section 23035, subdivision (e)(9), requires that a customer receive a written agreement that unequivocally states:

[T]he customer cannot be prosecuted or threatened with prosecution to collect.

The Department is aware that some prosecutors are receiving complaints from payday lenders about their customers' dishonored checks and that county prosecutors are expending their resources in pursuing legislatively prohibited collection efforts relating to dishonored checks from customers written for deferred deposit transactions.

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SAN FRANCISCO 94105-2980  
71 STEVENSON STREET, SUITE 2100  
(415) 972-8559

LOS ANGELES 90013-2344  
320 WEST 4<sup>TH</sup> STREET, SUITE 750  
(213) 576-7500

SAN DIEGO 92101-3697  
1350 FRONT STREET, ROOM 2034  
(619) 525-4233

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The Department would appreciate CDAA notifying its members immediately that: (1) the CDDTL limits actions that can be taken against consumers for dishonored deferred deposit transaction checks; and, (2) any complaints your members receive about such checks should be referred to the Department of Corporations to the attention of Steven Thompson, Special Administrator, 320 West 4<sup>th</sup> Street, Suite 750, Los Angeles, CA 90013.

Please contact me if you have any questions and thank you for assisting the Department.

Sincerely yours,

Preston DuFauchard  
California Corporations Commissioner

By: //original signed//  
Wayne Strumpfer  
Deputy Commissioner, Enforcement and Investor Education